

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

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|--------------------------|---|----------------------|
| UNITED STATES OF AMERICA |) | |
| |) | Case No. 1:15-CR-112 |
| v. |) | Judge Collier |
| |) | Magistrate Judge Lee |
| JIMMY DEAN MILEN |) | |

ORDER

On January 15, 2016, Defendant Jimmy Dean Milen filed a motion to suppress evidence in his case. (Doc. 16.) The Court referred the motion to Magistrate Judge Susan K. Lee, who, after holding a hearing, issued a report and recommendation (“R&R”) recommending that the motion be denied (Doc. 30). Defendant has given notice that he does not object to the R&R. (Doc. 31.)

The Magistrate reasoned that (1) although Defendant’s statement regarding the presence of a firearm in his vehicle was made without the benefit of *Miranda*¹ warnings, it need not be suppressed because it was elicited by a concern for officer safety, not to extract testimonial evidence; (2) even if the statement were suppressed, the subsequently discovered firearm constitutes the physical, nontestimonial fruit of Defendant’s voluntary statement, and thus would not be subject to like treatment; and (3) the search of Defendant’s vehicle was supported by probable cause, in that it was reasonable to believe the vehicle contained evidence of the offense of Defendant’s arrest.

Like Defendant, the Court finds no reason to object to the well-reasoned conclusions of the R&R. Accordingly, the Court **ACCEPTS** and **ADOPTS** the R&R (Doc. 30). Defendant’s motion to suppress (Doc. 16) is hereby **DENIED**. The Court further **ORDERS**:

¹ *Miranda v. Arizona*, 384 U.S. 436, 479 (1966).

- (1) The trial of this matter will be held **Monday, May 9, 2016;**
- (2) The final pretrial conference will be held **Wednesday, April 20, 2016 at 4:00 p.m.;**
- (3) Requests for jury instructions shall be submitted no later than **Wednesday, April 20, 2016;** and
- (4) The deadline for plea negotiations is reset for **Monday, April 11, 2016.**

The parties shall be prepared to commence trial at **9:00 a.m.** on the date which has been assigned. If this case is not heard at 9:00 a.m. on the date assigned, it will be held in line pending notification from the Court. Any subpoenas previously served in this matter will remain in full force and effect for the new trial date. The parties shall be responsible for notifying their witnesses of the new trial date and this Order.

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
UNITED STATES DISTRICT JUDGE